

[17th March 1955]

IV.—GOVERNMENT BILL.

THE MADRAS PLANTATIONS AGRICULTURAL INCOME-TAX BILL,
1954—cont.

Clause 7.

MR. CHAIRMAN :—" Motion moved—

' That clause 7 do stand part of the Bill.' "

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, namely,—

' Add the following at the end of the proviso :—

" and the rules so framed should be approved by the resolution of each House of the Legislature."

It has been stated in the proviso that if no method of accounting has been regularly employed by the assessee, or if the method employed is such that, in the opinion of the Agricultural Income-tax Officer, the agricultural income cannot properly be deducted therefrom, then the computation shall be made upon such basis and in such manner as may be prescribed. 'Prescribed' means prescribed by rules. So I wish to add that the rules so prescribed should be approved by the resolution of each House of the Legislature. I want that the rules framed from time to time should be approved by each House of the Legislature. That is why I have given notice of my amendment which says that the rules so framed should be approved by the resolution of each House of the Legislature. The rules framed by Government should not become effective without the approval of each House. That is my point. So I think my amendment which seeks to add the words at the end of the proviso, viz., 'and the rules so framed should be approved by the resolution of each House of the Legislature', may be accepted.

" Whenever rules are framed, I want them to be placed before the House and they should become effective after each House passes a resolution approving of the same."

* DR. V. K. JOHN :—" I second the amendment moved by Sri K. Balasubramanya Ayyar."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Under Clause 61 (3) there is already a provision for placing all the rules framed by Government under the Act before the Legislative Assembly for its approval. Therefore, I do not think the amendment of Sri K. Balasubramanya Ayyar is necessary."

MR. CHAIRMAN :—" Is Sri K. Balasubramanya Ayyar pressing his amendment? "

* SRI K. BALASUBRAMANYA AYYAR :—" No, Sir."

With the permission of the House, the amendment of Sri K. Balasubramanya Ayyar was withdrawn.

Clause 7 was put and carried.

17th March 1955]

Clause 8.

MR. CHAIRMAN :—“ Motion moved—

‘ That clause 8 do stand part of the Bill.’

* SRI K. BHASHYAM :—“ Sir, I have to move my amendment with some hesitation. What I want to say is not for opposing the Government idea as regards assessment of tax but to help them to make it better. Under Clause 8, the Court of Wards and the Administrator-General come in. They are persons who are in possession of properties *not* on their own behalf but on behalf of other persons. Therefore, the tax shall be levied *not* upon them but upon the *estate* that is vested in their hands. But from the present wording it looks as though the Court of Wards and the Administrator-General are made personally liable. I think it is not the intention of Government. But from the wording, it looks as though the Court of Wards and the Administrator-General are made *personally* liable for the tax.

“ It is said under Clause 8 (1) (a), ‘ In the case of agricultural income taxable under this Act which the Court of Wards, Administrator-General or Official Trustee, etc. . . . is entitled to receive on behalf of any person the tax shall be levied upon and recoverable from the Court of Wards, Administrator-General, etc. . . .’ It looks as though the Court of Wards or the Administrator-General is *personally* made liable for the tax, in case the agricultural income-tax is not paid. Either the Court of Wards or the Administrator-General could be taxed only on the *estates* which they hold on behalf of other persons; they cannot be made liable personally to pay the tax. I hope what I had said would be taken note of by Government. If the concerned person whose estates are under the control of the Court of Wards or the Administrator-General does not pay the necessary income-tax, then it is the business of the Court to make the person pay the tax prescribed. The Court of Wards or the Administrator-General cannot be made *personally* liable to pay the tax.

“ Under Clause 2 (q) it is defined that a ‘ person ’ means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognized by law and *includes a Hindu Mithakshara family*, an Aliyasanthana family or branch, etc. Therefore, according to the definition of a ‘ person ’ under Clause 2 (q) it includes a Hindu family also. Again under Clause 3 (3) it is said—

‘ In the case of persons holding property as tenants-in-common and deriving agricultural income, the tax shall be assessed at the rate applicable to the agricultural income of each tenant-in-common.’

[Sri K. Bhashyam] [17th March 1955]

Again under Clause 8, sub-clause 2 (a), it is said—

‘If a person holds plantations partly for his own benefit and partly for the benefit of others or wholly for the benefit of others, agricultural income-tax shall be assessed on the total agricultural income derived from such plantations at the rate which would be applicable if such a person had held the plantations exclusively for his own benefit.’

There is thus inconsistency and ambiguity in these three clauses I have quoted. I want the Government to make the meaning clear. That is why I have said that I have to move my amendment with some hesitation. Let the Government say what their opinion is. May be as I have thought they would have meant well. I would request them to explain their viewpoints before my amendment is accepted or rejected. Let them say clearly who are liable to pay the tax and who are not.”

* SRI V. K. JOHN :—“ On a point of order, Sir, I want to know whether a member is entitled to make a speech on an amendment without actually moving it.”

* SRI K. BHASHYAM :—“ From their nodding their head, I can find out whether they are in agreement with my amendment or not.”

MR. CHAIRMAN :—“ Is the hon. Member, Mr. Bhashyam, moving his amendment? ”

* SRI K. BHASHYAM :—“ Not moving, Sir.”

MR. CHAIRMAN :—“ Then I will put Clause 8 to the vote of the House.”

Clause 8 was put and carried.

Clause 9.

MR. CHAIRMAN :—“ Motion moved—

‘ That clause 9 do stand part of the Bill. ’ ”

* SRI K. BHASHYAM :—“ Sir, I move the amendment standing in my name, namely—

‘ In sub-clause (1) in line 3, after the words “ by virtue of a ” and before the word “ settlement ”, insert the word “ revocable ” and omit the words “ whether revocable or not ” occurring after the word “ disposition ”.’

Sir, I feel some ambiguity in this Clause 9. I do not know whether any good sense could be made out of this Clause. Of course it is said for this Agricultural Income-tax Bill, the relevant sections of the Indian Income Tax Act have been closely followed. I do not quite understand whether this clause follows closely the relevant section under the Indian Income Tax Act. If they have adopted the Indian Income Tax Act wholesale, then this clause should hit benami transactions or transactions which are sham. But what have they done here in this clause?

17th March 1955] [Sri K. Bhashyam]

“ They have adopted wholesale sections of the Indian Income Tax Act. What is happening is this. Evidently it means that this section is intended to hit benami or sham transactions, which are not real. I will read the section to make it clear and the section reads—

‘In computing the total agricultural income of an assessee, all agricultural income arising to any person by virtue of a settlement or disposition, whether revocable or not, and whether effected before or after the commencement of this Act, from assets remaining the property of the settlor or disponent shall be deemed to be the agricultural income of the settlor or disponent, etc., etc.’

What does the word ‘ remaining ’ mean is not made clear. However, it is clear that the Government do not want to recognize all settlements or transactions including benami or sham transactions. It will be quite good if it is said in plain language as a matter of fact that it is the intention of the Government. The clause as it stands does not make the intention of the Government clear. That is why I have moved my amendment, Sir.”

The amendment was duly seconded.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ Sir, I submit under the general law, in the absence of power of revocation, it is understood that it is irrevocable and we have also followed closely the language of section 16 (1) (c) of the Indian Income-tax Act. I admit that it is likely to be interpreted differently also. Some of the defects or difficulties which the hon. Member has pointed out will be borne in mind and suitable action will be taken.”

* SRI K. BHASHYAM :—“ Sir, I am glad that the Government are relenting a little. However, I would like to point out that in respect of these matters Government should take proper advice in drafting these Bills. With reference to the Income Tax Act itself, even there, sections have been found to be defective and cases have arisen where ambiguities have been pointed out. Therefore, to take sections wholesale from that Act and incorporate them in this legislation is rather not good. That is what I would point out to the Government. I do not press my amendment.”

The amendment was, by leave of the House, withdrawn.

Clause 9 was put and carried.

Clause 10.

MR. CHAIRMAN :—“ Dr. V. K. John's amendment is included in Sri K. Balasubramanya Ayyar's amendment.”

* SRI K. BALASUBRAMANYA AYYAR :—“ Mr. Chairman, Sir, I move the amendment standing in my name, namely,—

‘ Add the following new sub-clause after sub-clause (d) :—

“ (e) Any sums paid by an assessee to effect an insurance on the life of the assessee or the life of the wife or the husband of the assessee or in respect of deferred annuity

[Sri K. Balasubramanya Ayyar] [17th March 1955]

on the life of the assessee or on the life of the wife or husband of the assessee or as a contribution to any Provident Fund, to which the Provident Fund Act of 1925 applies.

- " (f) Such portion, if any, of the earned income of the assessee included in his total agricultural income as is directed by the Annual Act of the State Legislature fixing the rate or rates of taxes for any year to be deducted in making the assessment for the year.*
- " (g) Any sums paid as donation to any institution or Fund which is established in the State for a charitable purpose as defined in this Act and is approved by the State Government for the purpose of this section, provided that the total of the sums so paid is not less than Rs. 250.*
- " (h) Compulsory capital expenditure as provided for by any Act for the time being in force.*
- " (i) Any sums paid into a reserve fund provided for the purpose of any loss due to the fluctuations in the market prices or the yield."*

Exemption in respect of insurance premia is also found in the Indian Income-tax Act, where moneys paid towards insurance premia are not taxed and therefore it is I have suggested the inclusion of that provision also here. Wherever insurance is effected on the life of the assessee or his wife, that principle should be followed. That is the first amendment.

"The second is, according to section 15 (a) of the Indian Income-tax Act, a portion of the income is fixed as earned income of the assessee and that also should be deducted in making the assessment for the year. This principle is embodied in the Income-tax Act. I move that that principle also be made a part of the Agricultural Income-tax Act.

"The third point is, any sums paid as donations to any institution or fund which is established in the State for a charitable purpose as defined in this Act and is approved by the State Government for the purpose of this section, provided that the total of the sums so paid is not less than Rs. 250 should be exempted from tax. This is also a well-known principle accepted under the Indian Income-tax Act. Some of these principles are accepted already under the Income-tax Act as principles to be followed so far as the assessment of the tax is concerned. Those principles should also be introduced in this legislation.

"Another point to which I wish to refer is capital expenditure incurred by assesses as provided for by any Act for the time being in force. I have in mind, Sir, the Plantation Labour Act of 1951 by which large capital expenditure is imposed on the assessee for providing various amenities to the labourers such as housing accommodation, medical and educational facilities and so on. Therefore, such compulsory capital expenditure also may be deducted from the assessment.

17th March 1955]

[Sri K. Balasubramanya Ayyar]

“ The last point is, any sums paid into a reserve fund provided for the purpose of any loss due to the fluctuation in the market prices or the yield should also be exempted from assessment. All these marketable produce are liable to very serious fluctuations as we all know by experience and therefore, if any agricultural company or assessee provides for any reserve fund to meet this loss, *bona fide* and not for the sake of escaping assessment of income-tax, such sums should also be deducted from the assessment.

“ All these principles have been accepted under the Indian Income-tax Act, viz., insurance on the life of the assessee and his wife, any portion of the earned income which is fixed for the purpose of deduction from the assessment, any sums paid for charitable purposes recognized by the State, any capital expenditure imposed on the assessee by legislation and also any sums which may be allotted to a reserve fund specially provided for the purpose of meeting any loss due to fluctuations in the yield or market price should all be exempted from assessment. Therefore, I urge that these principles may be incorporated in Clause 10 of this Bill.”

* DR. V. K. JOHN :—“ Sir, I strongly second this amendment and I would request you to allow me to move my amendment also which deals with earned income. Of course, I know no amendment will get through this House.”

MR. CHAIRMAN :—“ Are you seconding Sri Balasubramanya Ayyar's amendment? ”

* DR. V. K. JOHN :—“ Yes, Sir. I am seconding Sri Balasubramanya Ayyar's amendment as it covers my amendment also. The hon. Member Sri Balasubramanya Ayyar has explained that most of these principles are found in the Indian Income-tax Act and there is no reason known to anybody why this Plantations Income-tax Act should not follow closely the provisions of the Indian Income-tax Act. Regarding insurance, Sir, it is an accepted policy of every civilized Government to encourage insurance and therefore, they make a provision that the insurance premia paid will be deducted from the total income for the purpose of assessment of income-tax. It is not incorporated in this Bill. I hope the Hon. Minister for Revenue who moved this Bill and who, I must admit, appears to be reasonable and understands and appreciates the reason behind the amendments moved from this side, will consider bringing in new amendments, even though the Bill may be passed into law now. In this House no amendment will be accepted, because the Bill has to be referred back to the Assembly. But I appeal to the Government to go into this again and see whether there is any principle in the amendments we have moved.

“ Then, coming to earned income, I know that the Taxation Enquiry Commission has made some suggestions in regard to exemption of earned income. But those suggestions have not been accepted still, though they admit the necessity for giving

3-50
p.m.

[Dr. V. K. John]

[17th March 1955]

certain income groups exemption for earned income. This was introduced in 1945 in the Indian Income-tax Act by incorporating Clause 15-A. This is also found in the Coorg Act recently passed. Why should we not have this provision in the Bill under discussion? This will encourage the persons who spend their time and labour on this business. The Bill should make a distinction between the income of a person without effort, e.g., dividend, and the income of a person who toils everyday to get that income. This allowance is given to encourage people to put in their efforts to earn their income. I do not see why this beneficent provision in the Indian Income-tax Act should not be incorporated in the Bill.

“ Regarding the other amendment dealing with donation to any institution or fund which is established in the State for a charitable purpose, I have to say that donations are exempted in the Indian Income-tax Act. I do not know the reason why we should not encourage donation to such charitable institutions which are accepted by the Government for this purpose. Even here they show such miserliness. Is the share of the shareholder to be saddled exclusively with this burden? When somebody wants to give some donation, why should the Government also take a share in it? The principle that is enunciated in the Indian Income-tax Act is not followed here.

“ Then there is the question of exempting compulsory capital expenditure. There are many items of compulsory expenditure. I ask the Government whether the share of the shareholder is to be burdened with this expenditure? Would not the Government exempt this capital expenditure? After all there are two persons who share the income of a plantation, namely, the shareholder or the proprietor and the Government. The Government take their share of the income and the shareholder takes his share of the income. Why should the Government ask the shareholder to bear the whole burden? It is necessary that this compulsory capital expenditure should be exempted. I ask the Hon. Minister to kindly consider the equity and justice behind this amendment.

“ Sir, it is the practice of every plantation to make a reserve fund for the purpose of offsetting losses in years when there will be no crop at all. For a period of four or five years there may be a bumper crop. For some years there may not be any crop at all. Therefore some amount is reserved to offset losses by almost every plantation. By not making provision for exempting any sums paid into a reserve fund, the Government will only be discouraging the industry. They will be throwing a heavy burden on the shareholder alone. I do not think that this Bill will encourage the plantation industry at all. If the Government do not encourage this industry, they themselves will suffer on account of diminishing returns. The amendments that have been moved are all for the purpose of helping the Government in the long run. Next year the Government may take a large amount from these plantations, but

17th March 1955]

[Dr. V. K. John]

after that year, will the Government get the same amount if the industry is not encouraged? I, therefore, very fervently appeal to the Mover of this Bill to consider this question, after the Bill is passed into law, and see whether the industry should not be encouraged, and whether they should not follow the provisions in the Indian income-tax. Not accepting the amendments suggested here would mean not encouraging the industry. Not only will the Government be not encouraging the industry, but they will be ruining the industry, the labourer, the shareholder, and also themselves by diminishing returns. As I pointed out earlier, the increase in the revenue of the Government depends on the increased economic strength of the people. Therefore, whenever the Government pass a measure, they should apply the test whether that measure will in the long run increase the economic strength of the people. The Government should collect revenue from the people not by taking away everything from the people and getting diminishing returns thereby. This test must be very rigidly applied. If we apply this test, we will find, after this Bill is passed into law, that we are only discouraging the industry and that in the long run the Government themselves will suffer. The Government are ruining the industry by this taxation measure and they will repent, but they will repent when it is too late. Once the plantations are neglected, it will be very difficult to bring them back into life. Therefore it is I say that they should not be neglected. The industry must be encouraged in every way possible. I suggest very seriously and I also appeal to the Government to reconsider this Bill in the light of the amendments moved in this House, and particularly in the light of the provisions contained in the Indian Income-tax Act. The Government should closely follow the provisions contained in the Indian Income-tax Act. If they do not follow, we must know the reason why they do not follow those provisions. There is no reason why this Bill should not make provision for those allowances which the Indian Income Tax Act provides for."

* SRI K. BHASHYAM:—"Sir, I sympathise with the Mover of the amendment in trying to get these various items exempted from the total income for purposes of the levy of the tax. These are allowed in the Indian Income Tax Act, and these have been found to be quite satisfactory by the people also. However, I would like to make one observation. If there is a person who pays not only income-tax but also the Plantations Agricultural Income-tax, and if he has got the benefit of these deductions at the time of his paying the income-tax, I think he ought not to be allowed any further deductions from his income. This must be made quite clear. If at all there is any desire on the part of the Government to accept this amendment or to take steps for accepting this amendment . . ."

* DR. V. K. JOHN:—"Is there any logic in it?"

[17th March 1955]

* SRI K. BHASHYAM :—“ If, as a matter of fact, there is one who pays not only income-tax but also the Plantations Agricultural Income-tax, and he has had the benefit of these deductions when he paid the income-tax, why should he have this benefit for a second time? I do not see any logic here. If the Mover of the amendment would make it clear that the advantage of these deductions would not be availed of twice, the Government may consider the acceptance of the amendment. If the Government do not accept the amendment now but at least think of amending this legislation suitably later, they must bear in mind the suggestion I made.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ Sir, in opposing the amendment, I wish to state that already provision has been made in the Bill for deducting certain categories of income from the amount liable for Agricultural Income-tax Act. We have provided for four categories of income. Now the hon. Member Sri K. Balasubramanya Ayyar wants to add five more items to the already existing four. I appreciate the object with which these amendments have been tabled. But as the Hon. the Deputy Leader of the Opposition has said, at this stage it will be difficult to accept the amendments *in toto*. Further, my hon. Friend Sri Bhashyam has also pointed out another difficulty, viz., that there should not be a double deduction. This has also to be gone into. I am very glad to note that the hon. Deputy Leader of the Opposition is in a more reasonable frame of mind to-day. Not only that. When he talks in a calm manner he drives home his point better than when he is in a ferment. So, if he wants to succeed in getting his amendments carried and if he wants to succeed in other matters, it is better he talks as he does to-day. In fact, I was able to follow him closely and it appealed to me. I cannot say the same thing when he talks in his usual manner.”

4 p.m.
* DR. V. K. JOHN :—“ Am I succeeding to-day, Sir? ”
(Laughter.)

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ No, Sir. This question was answered by the hon. Deputy Leader of the Opposition himself. He has himself, understanding the situation, said that his amendment will not be accepted. Apart from that, all these questions will be borne in mind when an amending Bill is thought of. At that time all these points will be considered, Sir.”

* SRI K. BALASUBRAMANYA AYYAR :—“ If any deduction has already been given for the purpose of life insurance, the question of applying for it a second time does not at all arise. No Income-tax Officer will allow such a double deduction. The present Bill under consideration relates to agricultural income. If already deduction in respect of this item has been given, there is no need for my amendment. In case, there was no deduction made in respect of this item, there will be difficulty if we do not

17th March 1955]

[Sri K. Balasubramanya Ayyar]

provide for a specific provision. All of us on this side, including the hon. Deputy Leader of the Opposition, are reasonable. I hope the Hon. Minister will also be reasonable and will be able to accept the amendment."

MR. CHAIRMAN :—" The question is—

' Add the following new sub-clauses after sub-clause (d) :—

" (e) Any sums paid by an assessee to effect an insurance on the life of the assessee or the life of the wife or the husband of the assessee or in respect of deferred annuity on the life of the assessee or on the life of the wife or husband of the assessee or as a contribution to any Provident Fund, to which the Provident Fund Act of 1925 applies.

" (f) Such portion, if any, of the earned income of the assessee included in his total agricultural income as is directed by the Annual Act of the State Legislature fixing the rate or rates of taxes for any year to be deducted in making the assessment for the year.

" (g) Any sums paid as donation to any institution or fund which is established in the State for a charitable purpose as defined in this Act and is approved by the State Government for the purpose of this section provided that the total of the sums so paid is not less than Rs. 250.

" (h) Compulsory capital expenditure as provided for any Act for the time being in force.

" (i) Any sums paid into a reserve fund provided for the purpose of any loss due to the fluctuations in the market prices or the yield."

The amendment was put and lost.

MR. CHAIRMAN :—" Dr. V. K. John's amendment is now out of order."

Clause 10 was put and carried.

Clause 11.

MR. CHAIRMAN :—" Motion moved—

' That clause 11 do stand part of the Bill.' "

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, viz.—

' In sub-clause (1), omit the words beginning with " if the non-resident person " and ending with " severally liable for the tax " .'

This is a very important amendment so far as I could see. A non-resident assessee is liable to pay tax. This is all right. But, this clause 11 tries to impose the liability on both the resident person

[Sri K. Balasubramanya Ayyar]

[17th March 1955]

who is recognized to be an agent and a non-resident person. It is said in this clause that 'if the non-resident person has an agent in the State, such person and the agent shall be jointly and severally liable for the tax.' There are agents recognised for income-tax purposes. But the agents according to the Indian Contract Act are different. If persons who are in the business and who are capable of attending to the business and submitting accounts, etc., are employed as agents, I can understand. But still, I think it is not fair to make the agents also jointly and severally liable to pay the tax. In the original Bill there was a provision under clause 60, which said, 'every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof.' This provision is not found in the present Bill. In the absence of any such provision for reimbursement, the agents will be hit very hard if they are made liable to pay the tax jointly and severally with the non-residents. To remove this difficulty only I have moved my amendment, Sir."

MR. CHAIRMAN :—"What about the other amendment which the hon. Member has given notice of to the same clause?"

* SRI K. BALASUBRAMANYA AYYAR :—"Sir, it is a consequential amendment. If the amendment that I have just now moved falls through, the other amendment will also fall through. My submission to you, Sir, is that an agent for the purposes of the Income-tax Act is a person who represents the principal only for certain limited purposes. He may not be an agent for all legal purposes. For instance, we cannot consider him as an agent under the Indian Contract Act. In the absence of a provision indemnifying the agent in respect of the payments that he makes on behalf of a non-resident assessee, it will be most unfair and unjust to make the agent personally liable for the payment of the tax. When any notice or any other document is served on the agent, he may transmit it to the non-resident. Suppose he pays the tax on behalf of the non-resident. There must be a provision enabling the agent to recover it from the non-resident. In the absence of such a provision, the agent should not be made liable to pay the tax jointly and severally with the non-resident. Therefore it is I have moved my amendment, Sir."

* DR. V. K. JOHN :—"I second the amendment, Sir."

* SRI K. BHASHYAM :—"Sir, there is some difficulty in accepting the amendment moved by the hon. Member Sri Balasubramanya Ayyar. I want some clarification. Suppose there is a non-resident owner of a plantation and he has here an agent; suppose this agent who is working for the non-resident owner sends money to the owner from time to time and the owner also receives the same. In such cases, practically there will be nothing left in this State to enable the Government to proceed against, in case there were some arrears. What can the Government do in such

17th March 1955]

[Sri K. Bhashyam]

cases? It may be said that the Government may attach the plantations. But, I must point out that the tax amount that may be due will be only Rs. 100 or so. The plantations will be worth about Rs. 10,000 and more. It will be very difficult to attach the property worth Rs. 10,000 in respect of arrears of Rs. 100. Plantations are not like other properties like houses half of which or portions of which can be sold. Therefore, I feel that it will be difficult to accept the amendment of Sri Balasubramanya Ayyar as it is worded at present without a suitable proviso to enable the Government to collect the arrears from the agents. The agent who is managing the property on behalf of his non-resident principal must keep some cash with him here to pay the tax due to the Government. If he sends all the income to the non-resident principal who may reside elsewhere, there will be some difficulty for the Government in collecting their taxes. When the agent is made liable to pay the tax, he will take care to see that enough money is left in his hands for the purpose of paying the various taxes. As pointed out by Sri Balasubramanya Ayyar, there must be a provision for indemnifying the agent in respect of the payments that he makes on behalf of his principal. There must be some provision to enable the agent to recover the amounts back from the non-resident principal. Of course, it may be said that even in the general law, there is some such provision. But, I would like to point out that it is better that we provide for it even in this Bill. Though the agent is ordinarily entitled to recover the amounts that he might have paid on behalf of the principal, from the principal, to make the position clear we may introduce a specific provision in this Bill itself. In the original Bill there was provision for indemnifying the agent in respect of the payments that he has made on behalf of the non-resident person. This provision is not found in the present Bill. If this indemnity clause could be re-introduced in some form or other, the agent will be protected against all liability when the non-resident principal defaults in paying the tax. I hope this will also meet the point raised by my learned Friend Sri Balasubramanya Ayyar. So far as the amendment moved by him is concerned, I am afraid there will be difficulty in accepting it without some sort of a proviso making it possible for the Government to realize their taxes from the agent who is on the spot."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" This provision applies to cases where there is a non-resident who has some plantation in the State. He resides in another place and has got an agent here to look after the plantations. The wording of the provision is quite clear. 4-10 P.M.

'A person who is residing outside the State and who is in receipt of agricultural income from a plantation in the State shall be liable to pay tax on such income.'

Only in such cases, the question of joint and several liability arises. I also submit, Sir, that the phraseology 'joint and several liability' is a very well-known phraseology and its implications also are clear. There is no difficulty in interpreting it.

[Sri M. A. Manickavelu Naicker]

[17th March 1955]

“As regards the other point raised by my Friend, Mr. Bhashyam, I shall add it to the things I have listed to be looked into in course of time.”

* SRI K. BALASUBRAMANYA AYYAR :—“It is only because of the absence of a clause of indemnity in the Bill that I wanted to say that it would be hard if we made the agent personally liable. When we make him personally liable, we must provide him recourse to a personal suit for recovery of the amount from the non-resident owner. In the absence of such a clause, I am unable to appreciate the existing provision.”

MR. CHAIRMAN :—“The question is—

‘In sub-clause (1), *omit* the words beginning with “if the non-resident person”, and ending with “severally liable for the tax”.’

The amendment was lost.

Clause 11 was put and carried.

Clause 12.

MR. CHAIRMAN :—“Motion moved—

‘That clause 12 do stand part of the Bill.’”

* SRI K. BALASUBRAMANYA AYYAR :—“Sir, I move the amendment standing in my name, namely :—

‘*Omit the proviso.*’

The proviso says—

‘In the case of loss sustained before the commencement of this Act, this section shall apply only to such loss as was sustained in the previous year immediately before such commencement.’

This is rather hard. There will be carrying forward of losses in respect of the previous two or three years also and not necessarily the loss of the previous year alone. This provision will be very hard on those who incur losses in business. The proviso should not be there. It is not there even in the Indian Income-tax Act. There it allows carrying forward of losses up to a period of six years. This proviso is hard and it should go.”

* DR. V. K. JOHN :—“I second the amendment.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“I must oppose the amendment, Sir, because it was thought necessary to limit it only to the previous year. Otherwise, there will be scope for manipulation.”

* SRI K. BALASUBRAMANYA AYYAR :—“There cannot be any scope for manipulation because there is the well-known balance sheet system of accounting.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“What about individuals?”

17th March 1955]

* SRI K. BALASUBRAMANYA AYYAR :—“ Even in the case of individuals, their accounts are liable to scrutiny. Their accounts are not easily accepted. Further, in the case of individuals, there is no question of loss because in all such cases, only the income of the individual is assessed to income-tax. Ordinary losses incurred by individuals are not at all taken into account. In the case of businessmen, there is the well-known system of balance sheet and auditing. There cannot be mere carrying forward of losses, if there are no losses as such.”

MR. CHAIRMAN :—“ The question is—

‘ Omit the proviso.’ ”

The amendment was lost.

Clause 12 was put and carried.

Clause 13.

* SRI K. BHASHYAM :—“ Sir, I merely want to speak on this clause. Clause 10 (b) says that any dividend is exempted from assessment to agricultural income-tax. When we exempt a person receiving a dividend on any agricultural income of a company from the payment of this tax, I do not see any purpose in requiring the principal officer of a company to submit returns relating to payment of dividends to the Income-tax Officer. I am unable to see why there should be such a clause at all.”

THE HON. SRI M. A. MANICKAVELU NAICKER :—“ I too am not exactly able to see the necessity for it. But there being no amendment, let the clause be passed as it is.”

Clause 13 was put and carried.

Clause 14.

* SRI K. BHASHYAM :—“ Sir, I do not move my amendment but want to speak on the clause. It says that all authorities under the Act shall follow the orders and instructions issued by the Board of Revenue. This is not really correct or proper. It must be ‘ all lawful orders not inconsistent with the provisions of this Act ’. The orders should be in conformity with the provisions of the Act and then only it would be much precise. Then only the necessary lead can be given to the Board to see that all orders are in conformity with the Act. It is with these remarks that I support the clause.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ I submit, Sir, that the Board of Revenue is a statutory body and I think it will issue only such orders as are consistent with the provisions of the Act. I do not see why the words ‘ lawful and not inconsistent with the provisions of the Act ’ should be there. I wonder why an eminent lawyer as my Friend should think that things will not be done justly and properly and that justice will be miscarried.”

Clause 14 was put and carried.

[17th March 1955]

Clause 15.

MR. CHAIRMAN :—" Motion moved—

' That clause 15 do stand part of the Bill.' "

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, namely—

' In sub-clause 3 (c), for the words "*the point shall be found against the appellant . . . which they are divided*", substitute the following :—*" the point or points on which they are divided in their opinion shall be referred to the third Member and decided according to the view of the majority of the Members."*

It has become almost a pattern in all legislations to say that wherever there is a difference of opinion between two members, the decision shall be against the appellant. Sir, in respect of the Civil Procedure Code, so far as the High Court is concerned, if there is a difference of opinion between two Judges, the High Court says that the view of the senior Judge shall prevail. If the matter is, however, referred to a third Judge for decision, then the view of the majority prevails. We cannot say here that the point shall be found against the appellant. The law is not against the appellant. The law is in favour of justice, whether it is the appellant or the respondent. In the Sales Tax Act also, the same thing is said. The Legislature should not say that the point shall be found against the appellant. This is purely a question of legal procedure and it is for the courts to decide whether the point is to be found against the appellant or not. It is not right for the Legislature to say that. The Judges must find that out. We can only frame certain rules for the purpose of finding out whether the point should be found against the appellant or not. In substance it is all right. But to put in words specifically that if an appeal is heard by a Bench consisting of two members, and the members are divided in their opinions on any point, the point shall be found *against the appellant*, is not correct. How could the Legislature come in and say that it shall be found against the appellant? In fact the judgment is to be delivered by the Bench. How could the Legislature come in and stipulate that if the two judges are divided, then it shall be found against the appellant. I think there is no precedent for putting in a provision like this. So far as my experience as a lawyer goes, I have not seen any enactment wherein such a provision is stipulated. If there is any precedent, I will bow to it. But so far as I know there is no precedent."

* DR. V. K. JOHN :—" I second Mr. Balasubramanya Ayyar's amendment; at the same time I would like to say that I have myself given notice of a similar resolution. While I do not wish to use harsh words, I would ask the Hon. Mover of this Bill whether this will reflect credit on any civilized Government. I do not want to use harsh words."

17th March 1955]

MR. CHAIRMAN :—“ Moderate language should be used.”

* DR. V. K. JOHN :—“ Only unparliamentary language should not be used, Sir. It is a matter of opinion whether the language used is moderate or not.

“ There is a provision in this Clause 15 which says that if an appeal is heard by a Bench consisting of two members, and the members are divided in their opinion on any point, then the point shall be found *against* the appellant. To say that if the two judges differ then the matter will not be referred to the third judge of the Tribunal but that it will go against the appellant is a thing which one could find in no other piece of legislation but only in the legislation which we passed last providing for an Appellate Tribunal in Sales-tax matters, when I strongly protested against such a provision. In the whole history of legislation either in this State or in any other State in India or in the Union Parliament or in Great Britain or in America, you will never find such a piece of legislation in which the Government says that if there are three members and if a case is heard by two members and if the two disagree, then the matter will *not* be referred to the third member but that the point will go *against* the appellant. Then 99 per cent of the cases will go against the assessee. Therefore I say this provision should not be there. I say this provision will be very oppressive. The Tribunals are constituted by Government. You have to infuse confidence in the public. The Government are not persons unconcerned with the appointment of members of the Tribunal. It is they who appoint the Members of the Tribunal. Therefore it is but just and proper that they should say that if a case is heard by two Members and if they disagree then the matter should be referred to the third Member and not disposed of *against* the appellant. I would appeal to the Hon. Mover of this Bill to consider, when this Bill is passed, whether it will reflect credit on our Government, which I consider and hope is a civilized Government and an advanced Government.”

* SRI K. BHASHYAM :—“ I am rather provoked to speak on this occasion because of some harsh words used by the Deputy Leader of the Opposition. In the first instance I would like the Government to accept the very reasonable request made by Sri K. Balasubramanya Ayyar. I should like to say that this amendment would be more proper if incorporated in the previous clause wherein Government have taken power to appoint the Tribunal consisting of two Members even. We ought to have stipulated that in all cases the Tribunal shall consist of three Members. Then this contingency would not arise at all. But we have passed that clause. Therefore I would like the Government to see to it that they appoint always three Members to the Tribunal.

“ As regards the observation of the Deputy Leader of the Opposition, I would like to bring to his notice that there is a provision in the Civil Procedure Code wherein it is said that if two judges hear an appeal and if they disagree, then the lower Court's

[Sri K. Bhashyam]

[17th March 1955]

decree is confirmed. Therefore it is not uncivilized, when Government instead of saying that the lower Court's decree shall be confirmed, say that it will go against the appellant. Government could have simply said that the relevant portion of the Civil Procedure Code shall apply. They could have said it in the same words. Instead they have used the present wording. But all the same, it is not uncivilized as the Deputy Leader of the Opposition puts it. If only they have said that the relevant portion of the Civil Procedure Code shall apply in the event of the two judges disagreeing, then this criticism would not have been levelled. If the Government still persist that the present wording is to be retained, let them take care to see that no Tribunal of two Members is appointed; let them hereafter appoint only Tribunals consisting of three Members so that in case of difference of opinion between two Members, the matter could be referred to the third Member for disposal.

“Moreover the present wording of a later clause as it is, is confusing. The meaning is not clear. It is now said under Clause 15, sub-clause 3 (b) that when an appeal is heard by a Bench of two Members and the members are divided in their opinion on any point, *the point shall be found against the appellant* and the members shall, after delivering their separate opinions, pronounce a joint judgment announcing the *result of findings*, if any, on which they are agreed and of the findings recorded against the appellant on points on which they are divided. How could the two judges, when they disagree, give the result of their findings? If one judge, says ‘yes’, the other says ‘No’. When such is the case, how could they jointly pronounce the result of their findings, when the finding of one is contrary to that of the other? That is why I say this present provision will put the judges in an embarrassing position. I think the wording is absolutely wrong. It is impossible for the two judges to act contrary to their conscience. When one says ‘Yes’ and the other says ‘No’, how could they give a joint judgment? This will place the judges in an embarrassing position and I do not think any judge would be prepared to accept the post. Therefore I would request the Hon. Minister to look into the matter again. If necessary an amendment could be brought so that the judges may know how to conduct themselves. Meanwhile the Government may also think of not appointing two persons as the Tribunal but always only three persons.”

SRI V. CHAKKARAI CHETTY :—“I just want you, Sir, to explain to me what the expression ‘civilized Government’ means. Civilized Government means Government by civilized people. If it is said ‘uncivilized Government’ then it is a reflection upon the people because it is the people who choose the Government. Therefore if it said that ours is an ‘uncivilized Government’ then it is a reflection upon me, upon the speaker who used the word and upon others. Of course I want you to say whether Ministers in their personal capacity could be characterized as civilized or uncivilized. But I believe the Government is a civilized one. I believe we claim to be civilized people and therefore the Government the people have chosen should be a civilized one. It

17th March 1955]

[Sri V. Chakkarai Chetty]

cannot be uncivilized. If it is so it will be a reflection upon Dr. John, me and others, for we would also then become uncivilized."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, 4-30
the provision is based on the principle of majority. But I admit p.m.
that the expression and the language are not quite happy. It could have been better, as it is in the Civil Procedure Code. Now, there is no difficulty when there is a Bench of three Members and when two have one view, as the majority opinion prevails. The difficulty arises only when there is a Bench of two, and that only happens in certain cases when all the three Members are not available. In order that the decision may not be delayed, it was amended that the Tribunal may also consist of two Members. So, only in such cases wherein they differ, the opinion of the judge of the lower Court will prevail. But it is said it will be found against the appellant. The simple meaning is this: If the opinion of the lower Court is upheld by another Member of the Tribunal consisting of two Members, then there is a majority of two. So, the majority rule is satisfied. That is, two opinions as against one. But the language of this clause is not quite good. That may be bettered, I admit.

" Then, coming to my friend, the hon. Deputy Leader of the Opposition, he can be calm only for a time and he cannot resist being in his usual form. There is no reason why he should invite all the civilization of the world to support his argument. It is unnecessary. In the High Court also when two judges differ in certain cases, the lower Court's judgment prevails. So, there is nothing extraordinary and nothing uncivilized about it. The hon. Deputy Leader of the Opposition has been subjected to such decision all these years. Only here in the Council he gets up and says ' we are uncivilized '. In the Court he cannot do that. Having conformed to that in the Court, he need not express himself so strongly as he has done here."

* DR. V. K. JOHN :—" I want to say one word, Sir. I would like the Government to accept Sri K. Bhashyam's suggestion to have three judges, so that this may not come into operation. But I want to say this. There is no judge from whom an appeal is filed to the Tribunal. It is only an Officer who is assessing and not a judge in the correct sense of the term from whose decision you are appealing to the Tribunal. You cannot introduce the Civil Procedure Code into that. Under the Civil Procedure Code there is a decision given by a judge, a District or a Subordinate Judge. Then it goes to two other judges. Here, there are no Judicial Officers except those who are Members of the Tribunal. Even there, they are quasi-judicial officers. They have not got the independence of judiciary which we have got under the Civil Procedure Code. Therefore, the analogy of the Civil Procedure Code, when you have not got a judge from whom an appeal lies, is not at all correct."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" He may be an Officer, Sir. But he acts with all the judicial paraphernalia that is necessary."

[17th March 1955]

* DR. V. K. JOHN :—" He cannot be independent."

MR. CHAIRMAN :—" The question is—

' In sub-clause 3 (c), for the words " the point shall be found against the appellant . . . which they are divided ", *substitute the following :—*

" the point or points on which they are divided in their opinion shall be referred to the third Member and decided according to the view of the majority of the Members." ' "

The amendment was lost.

Clause 15 was put and carried.

Clauses 16 and 17 were put and carried.

Clause 18.

MR. CHAIRMAN :—" The amendment given notice of by Dr. V. K. John to this clause is a negative amendment and it is therefore, out of order. There is no objection however to the hon. Member opposing the clause."

* DR. V. K. JOHN :—" Sir, this is a very extraordinary provision. It was not in the original Bill and I would like the hon. Members of the House to know what Clause 18 is. Clause 18 provides for power to make provisional assessment in advance of regular assessment. Now, under this clause the Agricultural Income-tax Officer may, at any time after the receipt of a return made under section 16, proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee. A partner of a firm or a firm can be assessed like that. Under sub-clause (4) there shall be no right of appeal against a provisional assessment made under sub-section (1). Then, Sir, there is a more extraordinary provision under Clause (5), viz., ' for the avoidance of doubt, it is hereby declared that the provisions of sections 40 and 41 apply in relation to any tax payable in pursuance of a provisional assessment ', and Clauses 40 and 41 are penal clauses. Therefore, what the assessing Officer can do is, as soon as a return comes, in the same month he can say ' There is a provisional assessment of a lakh of rupees and pay it within a month '. And if it is not paid, there is penalty which may be perhaps double the amount. There is no appeal against this provisional assessment. How oppressive such a taxation is? Why cannot you wait for the regular assessment? Why cannot you put in more Officers? Now, what will happen is, in every case there will be a return, there will be a provisional assessment, of perhaps double or three times the amount that is actually due, and then after two or three years regular assessment will be made and the excess will be returned. There is no provision even for payment of interest. A more oppressive procedure in a taxation measure can never be imagined. It is not even found in the Indian Income-tax Act. I can find in the Indian Income-tax Act, section 18 (a) which provides for advance payment of tax. That is quite different. That is on the basis of the previous year's assessment, you take advance payment. Perhaps it is advantageous

17th March 1955]

[Dr. V. K. John]

to many people to pay in advance, and you get two per cent interest on it. It is not oppressive at all. But section 18 (a) itself in the Indian Income-tax Act was introduced to take all the money in the hands of the people as a measure to check inflation in the year 1946. Of course, it is still there. Section 18 (a) of the Indian Income-tax Act is therefore absolutely different. This oppressive provision was not in the original Bill. The Government now wants this oppressive measure to be introduced. To-morrow you will ask for the return of assessment. It will be given. The day after there will be a provisional assessment of many times the amount that is actually due. No appeal lies against it. Penalty will have to be paid and the man will be ruined. Is this a taxation measure that will advance the interest of this industry? I do not know why this is introduced. There was no brain wave for the man who drafted this Bill introducing a provision like this. At the Select Committee stage where everything has to be rationalized, you have introduced a most irrational provision of a provisional assessment without an appeal and with a penalty attached to it. At the leisure of the Income-tax Officer, the final assessment will be made. He will not be in a hurry at all because he has already collected much more. I submit, Sir, that considering every other provision in this Bill, this is the worst that can be imagined and you should not provide for this oppressive measures of taxation."

* SRI K. BHASHYAM :—" I do not know what my friend the Deputy Leader of the Opposition is objecting to. Under the Indian Income-tax Act, you can make a provisional assessment on the basis of the previous year's income. What is done here is not on the basis of the previous year's income at all. It is on the basis of the *return* made by the person for the year concerned. The authorities take you at your word. You say 'My return shows Rs. 2,000'. They say 'All right, pay on it at once'."

" The wording of the clause is—

" The Agricultural Income-tax Officer may, at any time after the receipt of a ⁴⁻⁴⁰ return made under section 16, proceed to make in a summary manner, a provisional p.m. assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it, after giving due effect to the allowance referred to in section 12."

(Interruption by Sri K. Balasubramanya Ayyar.) The first point is that there should be no provisional assessment at all. The second point is that provisional assessment is made on the basis of the assessee's return and accounts. The Deputy Leader of the Opposition said that there was provision for advance assessment in the Indian Income-tax Act. There, the assessment is made on the basis of the previous year's income. My point is that it is certainly more in favour of the assessee to pay the provisional assessment made on the basis of his return of income. At the time when the accounts are examined and looked into, if it is found that the assessee has to pay much more than he has paid on the basis of the provisional assessment, he will have to pay more."

[17th March 1955]

* DR. V. K. JOHN :—" May I ask, Sir, why there should be a provision for the return of the excess collected? "

* SRI K. BHASHYAM :—" I am pointing out that the assessment is based on the return of income given by the assessee."

* DR. V. K. JOHN :—" Why make a refund of the amount collected, if the assessment is made on the basis of the return of income given by the assessee? "

* SRI K. BHASHYAM :—" After looking into the return of income and the documents accompanying it and examining it thoroughly, if it is found that the assessee has to pay much more, are not the Government to have power to collect the full amount? Are the Government to take the return of the assessee as Gospel truth? They can only take it as the basis for making a provisional assessment. In sub-clause (4) it is stated that there shall be no right to appeal against a provisional assessment under subsection (1). No appeal is provided against the provisional assessment because the assessment is based on the return of the income given by the assessee himself. If the assessee should give the figure Rs. 10,000 as his income, the provisional assessment is made on this Rs. 10,000. What objection can there be to this provisional assessment? After making the provisional assessment under clause 18 on the basis of the return of income from the assessee, regular assessment will be made under clause 17, and if the assessee has to pay something more than that paid at the provisional assessment stage, the assessee will have to pay the balance. I do not understand the difficulty of hon. Members opposite. In fact this clause is much more favourable to assesseees than the provisions in the Indian Income-tax Act. This is my view, Sir, and I think this clause as it is is quite all right. I do not think any objection can be taken to it."

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, may I say a word? The assessee sends a return of income and also the accounts and documents. When all the accounts are supplied, why there should be a provisional assessment, I cannot understand. Why not make the regular assessment, I ask. What is there which prevents the Government from making the regular assessment? "

* SRI K. BHASHYAM :—" Sir, there are two stages in the matter. The first stage is the stage of provisional assessment on the basis of the return sent by the assessee. The second stage comes when the accounts and documents are thoroughly examined and regular assessment made. The provisional assessment is made without any investigation or examination of the return sent by the assessee. Therefore, regular assessment is made after examining in detail the accounts and documents of the assessee."

* SRI K. BALASUBRAMANYA AYYAR :—" What is the reason for making only provisional assessment in the first instance? Why not make regular assessment at the outset? No reason is furnished to us. Excepting the reason that the Government want

[17th March 1955] [Sri K. Balasubramanya Ayyar]

money, no other reason we are able to see. The assessee does furnish the return of his income and the documents. Why should not the Government have the regular assessment made then and there? Why should there be this provisional assessment? Is it a summary remedy as in the case of a promissory note? In the case of promissory notes, consideration is always presumed. Therefore the law says that in the case of a promissory note there shall be a summary remedy. Let us not here confuse ourselves with advance payment at all. I ask why should this legislature be anxious to say that money shall be paid immediately to the Agricultural Income-tax Officer and any excess collection be refunded to the assessee at the end. Why should there be this summary assessment at all? The assessee produces his return of income along with the necessary documents. The assessee has got the right to be regularly assessed, and no provisional assessment should be made. The assessee can give oral evidence also in support of his accounts. Why should the legislature say that the Government can have this provisional assessment? It is because the Government are very anxious to get money. That is the only reason I can see. However much I want to see all the points of view of Government, I fail to see their point of view in making this provisional assessment."

* DR. A. SREENIVASAN :—" Sir, as one of the assessees I consider this provision to be rather heinous. When documents and accounts are placed in the hands of the officer in charge of making these assessments, we will only be making him lazy if we allow him to discharge his duty by asking the assessee to pay the provisional assessment first. This will be an indirect method of making these officers lazy. Instead of the Government trying to get the maximum work out of these officers, they will be driving these officers to laziness. Because, once the money is collected by the Government, there will be no incentive for the officer to make a quick settlement of the amount. God only knows how long will it take for the assessees to get a refund. Therefore, there is no necessity for this provisional assessment. In these hard days, it is very difficult to find the money to pay the Government unless the Government think that they have got prerogative rights over the assessees."

SRI MOHAMED RAZA KHAN :—" Just one word, Sir. I am really surprised at the support which the Government are having from the hon. Member Sri K. Bhashyam. It is the right of the Members here to bring to the notice of the Government certain things which might have been omitted from the Bill. We need not mix up the issue of advance payment with the provisional assessment here. When an assessee presents his case and says that according to the provisions of the Act he has to pay Rs. 500 or Rs. 1,000 as tax, it is for the Agricultural Income-tax Officer to say whether he accepts the return or whether he is going to disallow certain allowances and come to his own conclusions about the income of the assessee. He may fix his own figure of income and make his assessment thereon. But if the Agricultural Income-tax

[Sri Mohamed Raza Khan] [17th March 1955]

Officer is to make a provisional assessment first and then regular assessment, the temptation will be to delay matters and it is very likely that refunds are made after one or two years. Even under the Sales Tax Act there are cases like this which have not been decided for years together. If there is no provision for provisional assessment, the officers will at the outset examine the accounts thoroughly and make their assessments. But now the officers can make their final assessments after a long time. It may be after one or two years even.

“ In the matter of the collection of sales tax, when once accounts are given, there may be a definite case for the Government to collect something more than they have already assessed. Wherever there is provision for provisional assessment, monthly payments are made and at the end of the year the accounts are gone through and final assessment is made. On the basis of the figures given by the assessee, the provisional assessment is made, and at the end of the year final assessment is made. But the Government instead of making this provisional assessment may provide for making the regular assessment in the first instance. While I quite appreciate the difficulties of the Government in accepting the amendment now. I say that there is no point in saying that this Bill will have to go to the Assembly if the amendment is to be accepted. That argument would mean that all our discussions are of no use. Whenever a flaw is pointed out to the Government, it is good for them to accept it or have it examined. Once they accept the amendment, they can take it to the other House for acceptance there.”

4-50
p.m.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ Sir, it is said that diamond cuts diamond, and I am glad that there is more than one diamond here. All the points raised by hon. Members opposite had been very ably met by my hon. Friend Sri K. Bhashyam. I am thankful to him for that. It has been said that there is a flaw in this clause. There is absolutely no flaw or difficulty. What is sought to be done is this. There has to be a provisional assessment. In the first instance, we take whatever is given by the assessee. Whatever be the return that he submits in the first instance, we make the provisional assessment on the basis of that return.”

* DR. V. K. JOHN :—“ In that case, why should we say in sub-clause (6) ‘ where the amount paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee ’? This means that the Government will be collecting from the assessee more than what is due to them.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ Sir, I am afraid the hon. Deputy Leader of the Opposition has forgotten the meaning of the word ‘ provisional ’. I said that it was a rough assessment. When we go into the accounts more fully we may find some excess collections. In certain cases, we may have even collected less amounts. If there is an excess, we return it.

17th March 1955] [Sri M. A. Manickavelu Naicker]

I don't think it is the contention of the hon. Deputy Leader of the Opposition that we should not refund this excess amount. I hope that is not his idea. As I said, in the first instance we proceed on the basis of the return submitted by the assessee. So, the present arrangement is to the advantage of the assessee himself. Option is given to him to submit such returns as he thinks to be correct. Then, the assessing authorities make the assessment on the basis of such returns. Later, the authorities go into the accounts in a detailed manner and find out the correct position. Hon. Members belonging to the legal profession are perhaps aware that in Courts, there is what is called an 'interim decree.' What is the purpose in passing an interim decree? Before knowing the full implications of what a final decree is going to be, the Court passes the interim decree. Afterwards, when the Court has gone into all the details pertaining to the case it passes the final decree. It is on this basis we make the provisional assessment. When the whole matter is gone into at a later date, if there is any excess, we refund it. If we find that we have to get some more amount from the assessee, we collect it. So, I do not think there will be any difficulty in regard to this matter. The hon. Deputy Leader of the Opposition tried to make out that there was some difficulty. But I fail to see any such difficulty as suggested by him."

Clause 18 was put and carried.

Clauses 19 and 20 were put and carried.

Clause 21.

* SRI K. BHASHYAM :—" Sir, I am not moving any amendment to this clause. I only want to make a few observations on this clause. I would like to know what the intention of the Government is in respect of this clause. It is said here that if a person, with a view to evading liability to income-tax or reducing his liability, enters into partition or some other arrangement, he will nevertheless be taxed. Ordinarily, in the case of a joint family, partition can be done legally. Even under the Indian Income-tax Act, partition is recognized. Take the case of partnership. If there was a dissolution of partnership and if there was reduction in liability in respect of a particular person, why should we penalize him by saying that we will not recognize the fact that his liability has been reduced? If a person evades liability it is one thing. In the case of an undivided family, the persons concerned may have been paying a higher amount as tax. But, when the family has been divided, the income of the individuals will also be less and their liability to tax will also be reduced. There is no point in asking them to pay the higher amount even after partition. In such cases, when the person's liability is reduced, he should not be penalized. Therefore, I request the Government to reconsider this clause 21 and omit the words 'or reducing' from this clause."

[17th March 1955]

* THE HON. SRI M. A. MANICKAVELU NAICKER:—“ I closely listened to what the hon. Member was saying. But still I am not convinced as to how the necessity arises for omitting the words ‘ or reducing ’. When an association is formed for the purpose of evading or reducing a person’s liability, we must see that such a thing does not happen. I do not see a shadow of difference between ‘ evading ’ and ‘ reducing ’. Anyway, I shall have the suggestion of the hon. Member examined.”

Clause 21 was put and carried.

Clause 22 was put and carried.

Clause 23.

* SRI K. BHASHYAM:—“ Sir, though I am not moving any amendment as such to this clause, I wish to say a few words on the clause itself. The proviso to this clause is somewhat difficult to follow and I should say it is somewhat oppressive. It says, ‘ Provided that when the transferor cannot be found, the assessment of such agricultural income of the previous year in which the transfer took place up to the date of the transfer and for the years preceding that year shall be made on the transferee in like manner . . . ’ It is said, ‘ for the years preceding ’. I should like to ask, ‘ For how many years ’? Suppose a person gets the transfer of a plantation on a particular date, and suppose there were arrears of tax remaining unpaid for a number of years prior to that date. According to this clause read with the proviso, the transferee is liable to pay all the arrears. Whatever be the arrears, whether they were arrears of 5 years, 6 years or even 10 years, he has to pay. We know there is some sort of secrecy in income-tax matters. The transferee cannot therefore get information from the Income-tax authorities with regard to the exact amount that the transferor has to pay as tax and for how many years he is in arrears. If the transferee is saddled with the responsibility of paying the arrears of income-tax, he will be put to lot of difficulties. We should definitely state that he will be liable to pay the arrears in respect of so many years. Let the Government say that he will be liable to pay the arrears for the year preceding the transfer. There must be some such specific provision. At present it is left very vague. This clause will discourage all transfers. Nobody will be prepared to take the plantations on transfer, because one will not have an idea as to the exact amount of arrears, and for how many years the tax was not paid. That is why in the amendment that I had given notice of I had suggested that the words ‘ for the year ’ may be substituted for the words ‘ for the years ’. If we make the transferee liable to pay the arrears in respect of one year, I can understand it. But, if we make the transferee liable to pay the tax in respect of 10 or even 20 years—because there is no limitation for Government dues—it will be very hard on him. When a person takes the plantation *bona fide* on transfer for full consideration and when he does not know at that time the exact

17th March 1955] [Sri K. Bhashyam]

amount of arrears, it will be most unfair to make him liable to pay the arrears in respect of a number of years. That is my submission to you, Sir."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—
" Sir, a difference is sought to be made between clause 23 and clause 28. Clause 23 relates to transfer of right in plantation. Clause 28 deals with change in constitution of a firm. In the proviso to clause 28, it is stated that ' . . . when the person who succeeded in the business cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of succession and for the year preceding that year shall be made on the person succeeding him'"

* SRI K. BHASHYAM :—" But, clause 28 deals with firms and business concerns."

* THE HON. SRI M. A. MANICKAVELU NAICKER :— 5 p.m.
" Whatever it is, when a person takes over certain rights and liabilities on transfer, he is supposed to know the full implications of the transaction. That is what we thought."

Clause 23 was put and carried.

Clauses 24 to 30 were separately put and carried.

Clause 31.

MR. CHAIRMAN :—" Motion moved—

' That clause 31 do stand part of the Bill '."

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, namely,—

' In sub-clause (1), omit the proviso '."

Sub-clause (4) of clause 17 says—

' If any person fails to make a return under sub-section (2) of section 16, or fails to comply with all the terms of a notice issued under sub-section (4) of that section or under sub-section (2) of this section, the Agricultural Income-tax Officer shall make the assessment to the best of his judgment.'

As far as this provision is concerned, clause 31 says that there shall be no appeal. I want this proviso to go because the Appellate Court, if it is satisfied that the return was not made for sufficient reasons, can very well try to revise the assessment on the basis of returns that it might ask the assessee to submit at that stage. In order to give the assessee an opportunity to show to the court that he could not submit the return in time for reasons he could not foresee, I want this provision. I think the assessee has got the right to do so. Therefore, it is, Sir, I want that the proviso should go."

* DR. V. K. JOHN :—" I second the amendment."

[17th March 1955]

* SRI K. BHASHYAM :—“ Sir, I would like to endorse the appeal made by my friend, Mr. Balasubramania Ayyar, because even if an assessee for sufficient reasons does not submit the returns in time, the assessing officer is permitted to go upon the material before him and make the assessment. Very often this is done in a revengeful spirit. So far as the Indian Income-tax Act is concerned, I know a number of such cases. Sometimes the notional assessment is very high and operates as a sort of penalty on the assessee so that he might submit his return in time at least the next year. That is, the officer wants the assessee to behave better the next year. In fact, this was the reason given by an Income-tax Officer to me. We must put a check on such ‘ aberrations ’ on the part of the assessing authority. We have got an appellate tribunal. That body must be given discretion to see whether the assessee was treated in the manner in which he ought to have been treated. So, I would request the Government to look into the matter and see whether anything can be done.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ I shall certainly look into the matter. But I wish to submit this. If the proviso is not there, returns will not be submitted at all in time. Nobody would be anxious to submit returns. Further clause 19 provides that if the assessee satisfies the Agricultural Income-tax Officer that he was prevented for sufficient reasons from submitting the return required by him, then he can cancel the assessment and proceed to make a fresh assessment. There is also another clause, clause 34, which empowers the Commissioner to call for the record of any proceeding under the Act which has been taken by any authority subordinate to him and pass such orders thereon as he thinks fit. Therefore, I think the proviso should be there.”

* SRI K. BALASUBRAMANYA AYYAR :—“ I withdraw my amendment.”

The amendment was by leave of the House withdrawn.

Clause 31 was put and carried.

Clauses 32, 33 and 34 were put and carried.

Clause 35.

MR. CHAIRMAN :—“ Motion moved—

‘ That clause 35 do stand part of the Bill.’ ”

* SRI K. BALASUBRAMANYA AYYAR :—“ Sir, I move the amendment standing in my name, namely,—

‘ Add the following as new proviso :—

“ Provided also that the Agricultural Income-tax Officer shall not issue a notice under this sub-section unless he has recorded his reasons for doing so and the Commission is satisfied on such reasons recorded that it is a fit case for the issue of such a notice.” ”

17th March 1955] [Sri K. Balasubramanya Ayyar]

Sir, this clause deals with escaped assessments. It says:—

‘35. *Income escaping assessment.*—If for any reason agricultural income chargeable to tax under this Act has escaped assessment in any financial year or has been assessed at too low a rate, the Agricultural Income-tax Officer may, at any time, within three years of the end of that year serve on the person liable to pay the tax or, in the case of company, on the principal officer thereof a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 16 and may proceed to assess or re-assess such income, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:’

My amendment is intended to avoid issue of notices on unnecessary suspicion. If there are sufficient reasons for issuing a notice, let the officer record them so that the Commissioner may also be satisfied about them. This is a further safeguard and it is only reasonable and proper that there should be such a provision. I do not plead for anybody who escapes assessment. He of course should be dealt with in as good or as bad a way as possible. I am not on that at all. Where the department proceeds to give notice to the assessee, the reasons for the issue of the notice should be recorded. Let the Commissioner also be satisfied administratively. There can be no harm in providing these safeguards. If the Government cannot incorporate this provision in the Act itself, they can do it under the Rules.”

* DR. V. K. JOHN :—“ I second the amendment.”

* SRI K. BHASHYAM :—“ I hope the Government will view this amendment favourably. If they cannot do it now they may do it when they frame rules. But I have an objection to the entire clause itself which is somewhat fundamental. It is very difficult to decide what is ‘escaped assessment’. An assessment might escape for no fault of the assessee or the assessing authority. In my own case such a thing has happened. I was given exemption in respect of my income in a particular year by the then income-tax officer. But in the next year, another officer came and said: ‘It was all wrong; the exemption was wrong. I do not think it is proper and so I assess you to tax for the whole period, including that for which exemption was given’. I did not pursue the matter because the amount involved was small. But it may happen that the sum is considerable in certain cases. For how long back the officer can go to find out the escaped assessment?

“ In the case of Income-tax Act, it was six years. If there is an income escaping assessment, it could be brought for re-consideration. Now I know they have extended the period from ‘six’ to ‘eight’ years. But there is no such limitation so far as clause 35 is concerned. 5-10 p.m.

“ I respectfully submit to the House that if there is an income escaping assessment, it need not always be taken that the assessee has deliberately escaped assessment. If it is a concealed one, if the assessee had deliberately concealed his income, then it is a different matter. The assessee ought to be booked and the necessary penalty levied. But that need not always be the case. There

[Sri K. Bhashyam]

[17th March 1955]

is no question of *bona fide* involved in all transactions. Suppose the assessee claims exemptions from tax for some genuine transaction of his. He may bring it to the notice of the authorities. In that case we cannot say that he has deliberately concealed his income. He may protest that he has been charged a higher rate and he may claim reduction in the tax. Such cases are there. Therefore in all cases we need not penalize the persons concerned. Only in cases wherein there has been concealment of income deliberately, the persons need be penalized. Again in the case of companies, it may be very difficult. Suppose a company has distributed dividends to the shareholders. They would have adjusted their accounts on that basis in a certain manner. Suppose you examine the accounts after 12 years and then begin to reassess"

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" In line 4 of Clause 35, the limit of 'three years' has been prescribed."

* SRI K. BHASHYAM :—" I am very sorry that has escaped my notice. I did not see it. I apologise for what I have said. Therefore I will stop saying anything more."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" It is made clear that the escapement only refers to three years. Even if in spite of it, there is a grievance for the assessee, then there is the provision for him to appeal. Even if that is not satisfactory, then I would say that we would consider what the hon. Member had suggested and see what could be done under the rule-making power of Government. I will see what could be done when we frame the rules."

MR. CHAIRMAN :—" The question is—

'Add the following as new proviso :—

"Provided also that the Agricultural Income-tax Officer shall not issue a notice under this sub-section unless he has recorded his reasons for doing so and the Commissioner is satisfied on such reasons recorded that it is a fit case for the issue of such a notice." , , ,

The amendment was lost.

Clause 35 was put and carried.

Clauses 36 and 37 were put and carried.

Clause 38.

* SRI K. BHASHYAM :—" I would like to say something on this clause even though no amendment has been moved to this Clause.

"There have been cases where powers have been given to the Tribunal for the purpose of not only compelling witnesses to produce documents, to give evidence but they have been given the power to take also additional evidence. I remember one case. It was with

17th March 1955]

[Sri K. Bhashyam]

reference to the Rent Control Act. A case was disposed of in the first Court in one way. The matter came in appeal to the Small Causes Court. The Chief Judge of the Small Causes Court linked another evidence. He sent it back to the lower Court for the purpose of investigation and trial. But the High Court has held that if a matter came in appeal from a lower Court, then the next higher Court (in this case the Small Causes Court) should decide the case as it came in appeal and decide the case. Therefore instead of saying that the Appellate Tribunal, Assistant Commissioner of Agricultural Income-tax, etc., shall have power to—

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses, and for ascertaining the yield and cultivation expenses in respect of any plantation; etc.

it would be better to say that all the provisions of the Civil Procedure Code shall apply. We need not limit the power only to the three cases (a), (b) and (c) referred to Clause 35."

* SRI K. BALASUBRAMANYA AYYAR :—" I support what Mr. Bhashyam has said. It is very reasonable to apply all the provisions of the Civil Procedure Code to the Appellate Tribunal rather than saying that they will have power only in respect of sub-clauses (a), (b) and (c) of Clause 35, viz., to enforce the attendance of persons, for compelling the production of documents and for issuing commission for the examination of witnesses, etc."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Yes, Sir, I shall have them examined."

Clause 38 was put and carried.

Clauses 39 and 40 were put and carried.

Clause 41.

MR. CHAIRMAN :—" Motion moved—

' That clause 41 do stand part of the Bill.' "

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, namely,—

' In sub-clause (1), lines 4 and 5, after the words " a sum not exceeding " and before the words " that amount " insert the words "one-eighth of ".'

It is said that when an assessee is in default in making a payment of the agricultural income-tax, then the Agricultural Income-tax Officer may direct that in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty. I think it is rather a harsh provision.

[Sri K. Balasubrahmanya Ayyar] [17th March 1955]

If there is a fraudulent concealment of income or wilful non-payment, then I could understand such a penalty being levied. But suppose there has been a delay of one or two days. Then because of the present wording of sub-clause (1), if the Officer decides in his discretion, he may levy as penalty the whole amount the assessee has got to pay. I thing to generalise like that will work hardship on the assessees. There may be genuine cases wherein some delay has occurred. That is why I have given notice of an amendment to make the penalty 1/8th of the amount."

* SRI V. K. JOHN :—" I second the amendment, Sir."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Only the maximum amount is mentioned. It is in the Officer's discretion to levy the penalty at a much lesser rate. But there should be something in the nature of penalty. Instead of fixing such a low figure as 1/8th of the amount as the penalty, we can as well remove the penalty clause. It must be something more. But let me state that in all cases the penalty need not be the maximum. It is left to the discretion of the Agricultural Income-tax Officer."

MR. CHAIRMAN :—" The question is—

' In sub-clause (1), lines 4 and 5, after the words " a sum not exceeding " and before the words " that amount " insert the words " one-eighth of ".'

The amendment was lost.

Clause 41 was put and carried.

Clause 42.

MR. CHAIRMAN :—" Motion moved—

' That clause 42 do stand part of the Bill.'

* SRI K. BALASUBRAMANYA AYYAR :—" Sir, I move the amendment standing in my name, namely,—

' Omit sub-clause (1).'

I say the present sub-clause (1) will be very harsh. There may be other members of the family who may not be liable for the tax at all. Even in the ordinary law it is provided that the right and interest of the member in the property will go to the purchaser. Under our Hindu Law it is provided that if a member's interest in a joint family property is sold, the right and title of the member goes to the purchaser. That is what the Hindu Law accepts. Therefore to say that the title and interest of *all* the members of such family shall pass to the purchaser, is rather harsh. That is why I say that sub-clause (1) may be omitted. It is easy for the Government to sell the property outright. There will be purchasers available to buy the whole interest of the family property. But the provision under the Hindu Law should be understood wherein the

17th March 1955] [Sri K. Balasubrahmanya Ayyar]

interest and title of the member of a joint family go to the purchaser. Therefore to say that the interest of *all* the member of the family shall pass on to the purchaser, is rather a harsh provision. That should be omitted."

The amendment was duly seconded.

* DR. V. K. JOHN :—" I submit, Sir, that this Clause is, in my opinion, a very curious provision. It does not say that when any interest of a member of any Hindu undivided family is sold, the interest of all members will be considered to have been sold. But at the same time there is a provision that the right, title and interest of all the members of such family, branch, tarwad, or tavazhi in the property shall pass on to the purchaser. I cannot understand it at all. If the tax is payable by the Hindu undivided family, an Aliyasantana family or branch, or a Marumakkattayam tarwad or tavazhi, then of course the whole property will be considered to have been sold. You need not make a provision that the interest of all the members will be considered to have been sold. But the idea behind it (although it is not expressed as usual when Bills are drafted and brought before the House) is that if the interest of any member is sold, the interest of other members also shall be taken by the purchaser absolutely. This is very strange. If A owes money and his interest in some joint family property is sold, then the interests of B, C and D in that property also will be considered to have been sold. That means when A owes the money, it can be realised from B, C and D. Do the Government realise that this is the strange result of Clause 42 (1)? When your assessee is one, you can collect the money from another and you can sell away the property of another. Suppose it is a partnership. Can you sell away the interest of all other partners when you have a claim against only one partner? If it is an undivided family, the law says that a member has an interest and when he dies, it does not go by succession but goes by survivorship. It is very strange indeed that such a clause should have been introduced which finds no place in the Indian Income-tax Act. The Hon. Minister in charge of the Bill might say that the Deputy Leader of the Opposition is using very harsh words. Sir, can you condemn this Clause 42 (1) in any language which is not harsh? It looks to me so absurd that this could have been introduced into a Bill and the Government should like to have it passed in this House, the Legislative Council, where there are educated members who can scrutinize this provision. And you think that this will go through this House also because you have got a majority in this House. As the Speaker of the Bombay Assembly said now-a-days members are like rubber-stamps who will vote for anything. Do you mean to say that this Clause as it is should pass through this House? I submit, Sir, it does not throw any credit on this House itself to pass this clause which is so badly worded and the intention behind it is so oppressive and so bad. Even though the Government get this measure passed by this House, I desire that they should

5-20
P.m.

[Dr. V. K. John]

[17th March 1955]

consider bringing an amending Bill to this Clause 42 (1) which was not in the original Bill. There is no analogous provision in the Indian Income-tax Act, and you say that when A owes money and when you go against A, you will take the property of B, C and D. A more oppressive piece of legislation I do not think ever passed through a House of a Legislature."

* SRI K. BHASHYAM :—" I should like to point out that you will be penalising the members of the joint family for negligence and mismanagement by its manager. That is what will come to even in the case of a Manager of a Hindu undivided family, an Yejaman of an Aliyasantana family or branch or the Karnavan of a tarwad or tavazhi. Therefore, Sir, it will be better if as a matter of fact it is stated that notice shall be given before such assessment takes place to the other members of the family as well to see that they pay the arrears. Why I say that is this. Under Clause 2 (g) a person means an undivided Hindu family and under Clause 3 (3) tenants-in-common are provided for. Therefore, if under Clause 2 (g) you really take the joint family as one unit and if that person is in arrear and the property is sold, it stands to reason that the whole property should be considered to have been sold. But before you do so, justice requires that the other members of the family should have notice of the arrears. That is what I would like the Government to think of. Moreover, the clause does not say 'income-tax due by the family'. If it were so, that will be something. I should like that under the Rules to be made a provision that in the case of a Hindu undivided family notice shall be given to other members of the family, if possible, before the sale takes place, should be incorporated. I hope the Government will consider this.

" The other objection I would like to make is under the second Clause, i.e., Clause 42 (2) which is much more difficult for me to follow. The clause runs like this—

'Where any person has been assessed to agricultural income-tax on the agricultural income derived from a plantation held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the plantation so held by him may be attached and sold for realization of such arrears and on such sale, the right, title and interest of such person in the said plantation shall pass to the purchaser.'

'Interest of which person' I ask. In the case of a person who is a beneficiary in respect of a portion of the property, I do not understand what is meant by 'interest of such person'."

* DR. V. K. JOHN :—" Nobody understands it."

SRI K. BHASHYAM :—" I would like the Hon. Minister in charge to look into it carefully. If the plantation is held by a person wholly for himself and in such a case if the property is sold, the interest of that person must pass on to the purchaser. If the plantation is held partly for himself and also for the benefit of other persons and if the person who acts as a trustee is in arrear, his interest alone will pass to the purchaser and not the interest of the other beneficiaries. Therefore, in one case the whole interest passes

17th March 1955] [Sri K. Bhashyam]

and in the other case, only partial interest passes. It must be made clear. As things stand, it looks to me that it is difficult to work out the rights of the purchaser of the property. Hence, the purchasers will be disinclined to purchase the property which is sold under such ambiguous terms of the section as it stands."

* DR. V. K. JOHN :—" It will give head-ache to Courts."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" The hon. Mover of the amendment himself has said that the language of the Clause is a little confusing. I share his feeling, Sir. Since the hon. lawyer members of this House also feel that there is a lacuna and a little confusion, I will take steps to see that it is made clear. It is a question of interpretation of words. It is likely to be interpreted in other ways. There is scope for it. Therefore, that will be gone into and the necessary provision will be made."

MR. CHAIRMAN :—" The question is—

' Omit sub-clause (1). ' "

The amendment was lost.

Clause 42 was put and carried.

MR. CHAIRMAN :—" The House will now adjourn and meet again tomorrow at three of the clock."

The House then adjourned.

V.—PAPERS LAID ON THE TABLE OF THE HOUSE.

* 1. *Amendments to rules made under the Madras Co-operative Societies Act, 1932, issued with G.O. Ms. No. 75, Industries, Labour and Co-operation, dated the 10th January 1955.*

2. *Notification No. 184 issued with G.O. Ms. No. 476, Home, dated 23rd February 1955, regarding exemption of car belonging to German Consul at Madras and official car of German Consulate from payment of tax under the Madras Motor Vehicles Taxation Act, 1931 (Madras Act III of 1931).*